ALLIANCE OF
WOUND CARE
STAKEHOLDERS
POWER THROUGH COLLECTIVE ADVOCACY

February 19, 2016

Mr. Andrew Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1653-NC
P.O. Box 8013
Baltimore, MD 21244-8013

Submitted electronically to: www.regulations.gov

Re: (CMS 1653-NC) Medicare Program; Request for Information Regarding the Awarding and the Administration of Medicare Administrative Contractor Contracts

Dear Acting Administrator Slavitt:

On behalf of the Alliance of Wound Care Stakeholders ("Alliance"), we are pleased to submit the following comments in response to the **Request for information regarding the Awarding and the Administration of Medicare Administrative Contractor (MAC) Contracts (CMS 1653-NC)**. The Alliance is a nonprofit multidisciplinary trade association of health care professional and patient organizations whose mission is to promote quality care and access to products and services for people with wounds through effective advocacy and educational outreach in the regulatory, legislative, and public arenas. These comments were written with the advice of Alliance clinical specialty societies and organizations that not only possess expert knowledge in complex chronic wounds, but also in wound care research. Over the years our members have had many issues with the MACs in which there is a lack of transparency in decision making, operational processes and accountability. Therefore, we have a vested interest not only in providing you this information but also to ensure that their financial interests do not interfere with the provision of appropriate medical care. A list of our members can be found at www.woundcarestakeholders.org.

General Comments

The Alliance appreciates CMS's desire to provide the contractors with incentives to reward them for exceptional performance. However, nowhere does CMS describe what exceptional performance means and how that will be measured. The Alliance has, over the years, tried to find information on the CMS website regarding the performance measures of its contractors and have not been able to find such information. Therefore, our first recommendation is that CMS should be required to provide the metrics on how the contractors are being measured. This transparency will not only help our clinicians but other stakeholders who interact with the MACs.

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The Alliance believes that instead of issuing a request for information on how the MACs are going to be rewarded, we believe information should be requested on how the contractors should be measured in order to keep their contract. There should be no monetary requirements or incentives – rather they should be measured based on their performance in accurately processing claims, placing accurate clinical information in their LCDs (thus utilizing stakeholders before issuance of a draft LCD) and providing accurate and timely information to their stakeholders. The performance measurements need to be meaningful and not based on the number of phone calls received or satisfaction with the website.

Furthermore, the Alliance believes that CMS should be providing more oversight into what their contractors are actually doing. Rather than financially rewarding the contractors (which has led to numerous issues with the RAC) CMS needs to ensure that the MACs are actually doing their job in a transparent way and are not exceeding the scope of their authority, and not comingling coverage, coding or payment issues, which unfortunately occurs often and will only increase if there are financial incentives being provided to them.

Finally, this request for information should not only pertain to the MACs but rather should apply to any of the CMS contractors – including the PDAC – who has on multiple occasions exceeded their authority with absolutely no accountability.

The Alliance's specific comments follow.

Specific Comments

CMS has requested input on 6 specific questions regarding incentives to the MACs for exceptional performance and transparency. The MACs should already be providing transparency and as such should not be rewarded for doing what they are obligated to do but are currently falling short. As for exceptional performance incentives, it is difficult to comment on this as there is no definition on what exceptional performance means. That said, our response to the 6 specific areas have been provided below.

Concerns or suggestions related to development of a potential "award term" strategy and plan

The Alliance is very concerned about any development of a potential award term or financial incentive provided to the MACs. The current contract structure is already placing an inappropriate incentive on the MACs, essentially making them more focused on their bottom-line costs rather than performance. The Alliance recommends CMS move away from a cost-savings program, as this only incentivizes the MAC to save money as their main priority instead of focusing on creating clinically appropriate policies and, accordingly, processing claims in an accurate, fair and responsible manner. The Alliance does not agree with the development of an award term or a program which provides financial incentives for the MACs to do the job in which they are obligated under the terms of their contract.

Suggestions for incentivizing and rewarding exceptional MAC performance

Nowhere in this request for information does CMS define the requirements for exceptional

performance and as such the Alliance believes that we cannot adequately comment on this as we do not know what the MACs are currently being measured by nor what CMS would consider as exceptional performance.

That said, it seems as though being rewarded for exceptional performance is a difficult standard to meet in this circumstance as there are already guidelines in place that the MACs are required to adhere to when they are awarded their contract (although CMS has not been very transparent about what those standards/guidelines are). A MAC would have to go above and beyond that which is already in their contract to be awarded financially. The Alliance suggests that MAC contractors have agreed to the terms and conditions of a contract and they should not be rewarded for meeting those conditions. Rather they should be penalized for not meeting them.

When MACs conduct themselves in a way that does not meet basic performance standards, it negatively impacts clinicians and others in the industry. Currently, there are many functions that MACs are expected to meet: claims processing, establishing local coverage determinations, educating the industry (clinicians, manufacturers and suppliers) etc. There should be high standards already in place for their knowledge and performance of these tasks. And, yet, daily questions are answered inaccurately and inconsistently, LCDs are issued with clinically inaccurate information and claims are processed incorrectly. We have consistently recommended that the MACs work in tandem with stakeholders instead of developing LCDs in isolation so as to achieve a more clinically and medically sound coverage policies that would help Medicare beneficiaries

If CMS believes that it needs to reward the MACs for doing what they are contractually obligated to do, CMS needs to be transparent in what their contractors are currently being held accountable for and how they are judged. Then CMS should work with stakeholders to develop a more meaningful list of quality metrics – similar to how the physician community is being judged on their performance.

Specific metrics or evaluation criteria that would be valuable in measuring the level and quality of the service provided by a MAC

The Alliance disagrees with the notion that MACs should be awarded any financial incentives for doing what they are obligated to do contractually. Rather, CMS should afford the industry the opportunity to provide input on the specific metrics and criteria in MAC contracts. Furthermore, we believe that the MACs should be penalized for not meeting these contractual obligations.

Our suggested metrics include both operational and clinical in scope:

Operational Parameters

- Transparency in MAC operational processes
- Adhering to CMS regulations in terms of notice and comment
- Claims denials
- Appeal overturn rate
- Appropriate stakeholder engagement and involvement in policy

- Customer service skills
- *Accessibility* to providers
- Open Grievance process
- Taking proactive action to address issues raised (For example, there have been times when providers raise an issue with the MAC and the MAC agrees is a problem. The providers have been told to submit reconsiderations of the policy just to be told that the policy can not be changed. We would recommend that if this is the case, then the MAC should simply address the change in the policy)

These should be reported for each MAC and penalties should apply if they are not met.

Clinical parameters

- How are clinical outcomes being affected by their policies?
- Are there clinical stakeholders being engaged in developing the draft policies or when modifications are made to existing policies?
- Are appropriate clinical staff employed to develop and answer questions related to the policies developed? Are the staff knowledgeable about the devices, drugs, procedures being addressed or if not how do they gain this information in order to write a clinically relevant LCD?
- Are policies drafted based on current clinical evidence and has the evidence been provided as part of a public process?
- Describe how a coverage policy change will positively influence the health outcomes of Medicare beneficiaries.

Specific metrics or evaluation criteria that would be valuable in measuring the level and quality of the MAC's relationships (including education and outreach) with providers

As stated above, the Alliance has yet to locate information on what the MACs are currently being measured on and how CMS determines whether the MACs have met their contractual requirements. The number of phone calls answered or provider satisfaction with a MAC website is not satisfactory. The MAC can answer 1000 calls but give out misinformation in 999 of their responses. Therefore, the metrics need to be meaningful and go directly to the performance of the MAC.

The Alliance suggests the following metrics to evaluate the level and quality of MAC relationships:

- The accuracy of information being provided to clinicians or others that call into the hotlines or customer service
- Issues that have been addressed – the resolution and the time to get to resolution
- The accuracy and topics of the Training sessions – both internal and external
- Consistency in messaging and response to questions
- The type and number of Education sessions and the questions answered accurately during those sessions (both internal and external)
- Accessibility to the hotline
- Glaring issues raised on chat sessions addressed in a timely manner

What types or kinds of information should be published for public release regarding MAC quality and level of service and performance*?*

As Medicare is publishing all information regarding physician quality in their physician compare website – it is only fitting that in the interest of government transparency, **all** MAC information regarding quality, level of service and performance should be available publicly, including award fees. Examples of the type of information that the Alliance believes should be made available to the public include, but is not limited to:

- The accuracy of the information provided
- The consistency in messaging and the response to questions;
- The number of prepayment audits provided by product category;
- The number of postpayment audits provided by product category;
- Meaningful provider satisfaction ratings (not just for the website);
- The accuracy of claim processing;
- The number of appeals at each level;
- The error rate;
- The overturn rates on pre and post payment audits;
- The number of claim denials in claim processing;
- The number of claims denied in pre and post-payment audits;
- The overturn rates on reopening;
- The MAC goals and achievement rates;
- Issues addressed and the time it takes to resolve an issue;
- The number and type of training sessions – both internal to their staff and external to the public;
- The number of time there is clinically inaccurate information contained in an LCD;
- The number of times there is an LCD that is revised with retroactive implementation
- The number of targeted meetings held with stakeholders to address concerns identified by stakeholders

Which types of metrics or information should be made available for public release if CMS was to publish the results or the evaluation of a MACs performance

All information as listed above should be made publicly available.

Advantages and disadvantages of the last two MAC consolidations

The Alliance concerns with these two consolidation is that we want to ensure when policies are combined, the MACs ALWAYS put those to public comment prior to enacting. In addition, the policies should utilize the least restrictive policy. Furthermore, in consolidating the MACs, we

submit that access to the medical directors and other policy staff becomes even more important to ensure medically appropriate LCDs.

Conclusion

In summary, the Alliance does not support rewarding the MACs for their performance. We do believe that more transparency is necessary not only from the MACs but from CMS as well. The standards or measures that the MACs are being held accountable should be published and a report card on how they are doing should be made available to the public.

On behalf of the Alliance of Wound Care Stakeholders, we appreciate the opportunity to submit these comments. We would be pleased to serve as a resource to you in addressing these metrics further. If you have any questions or would like further information, please do not hesitate to contact me.

Sincerely,

Marcia Nusgart R.Ph.

Marcia Nusgart R.Ph.
Executive Director